IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT PETITION Nos. 8129 of 1999 & 11942 of 1999

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WRIT PETITION NO : 8129 of 1999

Between:

M/s. Ravi Kumar Gas Agency, Puttur. rep. by its Sole Proprietor.
S/o. Sri Samivelu, R/o. Puttur, Chittoor. **..... PETITIONER**

AND

1 The Joint Collector, Chittoor.
2 The Senior Sales Officer,
Hindusthan Petroleum Corporation, Chittoor.
3 The Mandal Revenue Officer,
Puttur, Chittoor. **.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction preferably in the nature of writ of certiorari calling for records from the file of the 1st respondent relating to the proceedings in Roc.S5/2194/98, dated 12/04/1999 and quash the same declaring the said proceedings as being violative of Articles 14 and 21 of the constitution of India and also violative of principles of natural justice and further violative of clause 28, sub-clause 28(2) of A.P. Petroleum Products Licensing Regulation Order, 1980 and forbid the respondents from proceeding in any manner in pursuance of the said proceedings.

Counsel for the Petitioner: MR.V.RAMESH KUMAR

Counsel for the Respondent Nos.1 & 3: GP FOR CIVIL SUPPLIES

Counsel for the Respondent No.2: Mr.P.V.Sanjay Kumar.

WRIT PETITION NO : 11942 of 1999

Between:

M/s. Ravi Kumar Gas Agency, Puttur, rep. sole Proprietor.
P.Ravi Kumar, S/o. Samivelu. R/o. Puttur, Chittoor.

..... PETITIONER

AND

1 The Joint Collector, Chittoor.
2 The Senior Sales Officer,
Hindusthan Petroleum Corporation Ltd., Chittoor.
3 The Mandal Revenue Officer,
Puttur, Chittoor.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, direction or order preferably in the nature of Certiorari calling for the records relating to the proceedings issued by the 1st respondent in Roc.S5/2194/98 dated 03/06/1999 and quash the same declaring the said proceedings as being violative of principles of natural justice and also suffering from the vice of non-application of mind and also bad in law and forbid the respondents from proceeding in any manner in pursuance of the said order of cancellation passed by the 1st respondent on 03/06/1999.

Counsel for the Petitioner: MR.M.DORAI RAJ

Counsel for the Respondent Nos.1 & 3 :G.P. for Civil Supplies.

Counsel for the Respondent no.3: Mr.P.V.Sanjay Kumar.

The Court made the following :

COMMON ORDER:

Heard both sides.

These two Writ Petitions are connected to each other and so, they have been taken up together for disposal.

In the first Writ Petition, the petitioner herein seeks to assail impugned orders dated 12.4.1999 passed by the first respondent herein *inter alia* suspending licence held by the petitioner.

The case of the petitioner, in brief, is that having regard to the fact that no prosecution has been initiated against the allegations made against him, question of suspension or any further steps, does not arise. In support of his contention, he placed reliance on judgment of Division Bench of this Court reported in *The Commissioner of Civil Supplies, Govt. of A.P., Hyderabad V. Radha Automobiles, Hyderabad* wherein questioning the provisions of the Essential Commodities Act and A.P. Petroleum products (licensing and Regulations of Supplies) Order, 1980, it was held that in the absence of any prosecution initiated against the dealer, order of suspension is not maintainable.

It is further submitted that after having filed the aforesaid Writ Petition and obtained the interim orders by the petitioner, the first respondent passed fresh orders on 03.06.2999 as consequence of the orders assailed in the first Writ Petition, and assailing the same, the second Writ Petition is filed.

Having considered the submissions made and perusal of material on record, it is seen that even in counter affidavit, there is no allegation with regard to any prosecution being launched against the petitioner. In view of the same, principles laid down in the aforesaid decision squarely apply to the facts of this case. In the circumstances, it is to be held that the impugned orders are liable to be set aside.

Accordingly, both the Writ Petitions are allowed, setting aside the impugned orders passed by the first respondent in ROC No.S5/2194/98, dated 12.4.1999 and in ROC No.S5/2194/98, dated

03.06.1999. No costs.

It is needless to observe that any enquiry as initiated against the petitioner can continue and however, the petitioner can carry on his business.

10.09.2004

DRK

Copy to:

1 The Joint Collector, Chittoor.
2 The Senior Sales Officer,
Hindusthan Petroleum Corporation Ltd., Chittoor.
3 The Mandal Revenue Officer,
Puttur, Chittoor.

4 Two CCs to the G.P. for Civil Supplies, High Court of A.P., High Court buildings, Hyderabad (o.u.t.).

5 Two CD copies.